

for the

United States of America

-versus-

Nicholas Kelly Cain

Date of Previous Judgment: April 19, 2010

(Use Date of Last Amended Judgment if Applicable)

Case No: 4:09-73-003 (TLW)

USM No: 17094-171

Pro se

Defendant's Attorney

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG § 1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is **DENIED** (Docs.# 1031 & # 1035). This case does not qualify because the Chapter Four Enhancements override Chapter Two. The Defendant is a career offender. To the extent the motion requests counsel, it is deemed **MOOT**. Pursuant to standing Order of the Court, the Federal Public Defenders Office for the District of South Carolina has been appointed to represent defendants, with their consent, to review their files and determine if Amendment 750 of the Fair Sentence Act of 2010 applies to them. To the extent that Defendant requests counsel other than the Federal Public Defender, his motion is **DENIED**.

IT IS SO ORDERED.

Order Date: April 9, 2012

s/ Terry L. Wooten

Judge's signature

Effective Date:

(if different from above)

Terry L. Wooten, United States District Judge